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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FILE COPY

REPLY TO THE ATTENTION OF

SR-6J

November 27, 1998

VIA TELEFAX
HARDCOPY TO FOLLOW IN MAIL

D. Michael Light
Manager, Remedial Projects
Solutia, Inc.
10300 Olive Boulevard, F2EA
P.O. Box 66760
St. Louis, MO 63166-6760

Re: Area 1, Sauget Superfund Site

Dear Mr. Light:

U.S. EPA is in receipt of Monsanto and Solutia's November 19, 1998, response to U.S. EPA's Special Notice of Liability for the above referenced site. In that letter, Monsanto/Solutia submits a proposed Statement of Work (SOW) and Support Sampling Plan for the Area One site, as well as comments on the Administrative Order on Consent (AOC) sent to the PRPs in the Special Notice letter.

This letter is to provide you with our general response to your proposal and to give you an opportunity to make amendments to it so that negotiations in this matter may proceed. As discussed below, certain attributes of your proposal prevent us from agreeing to extend the negotiation time frame under the special notice procedure. Unless we receive a statement from you on or before December 2, 1998, agreeing to the conditions set forth in this letter, we will proceed to conduct the EE/CA and RI/FS work for the site ourselves.

Our first concern with your proposal is that it alters the framework under which the EE/CA and RI/FS work for the site will proceed. As we have made clear in our discussions with you, U.S. EPA will not agree with having the Support Sampling Plan as an attachment to the AOC. The 60-day negotiation period under the Special Notice procedure is meant to reach closure on the terms of the legal framework by which the EE/CA and RI/FS work will be accomplished, e.g., the terms of the AOC and SOW. Your proposal unacceptably alters this procedure by forcing approval of the Support Sampling Plan within this time frame. The history of the negotiations

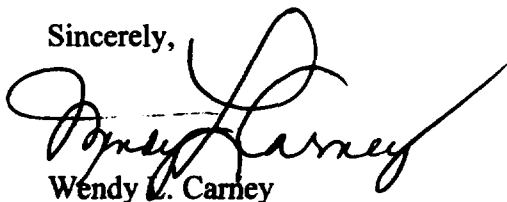
which have already occurred in this case show that requiring the formulation of the Support Sampling Plan in the absence of an enforceable document will result in unacceptably lengthy and potentially unproductive negotiations. Additionally, and more importantly, making the sampling plan an inflexible attachment to the AOC is unacceptable because it will make modifications and amendments to the plan too difficult and time-consuming.

Our second concern with the proposal is found in Attachment D. Attachment D states that Monsanto/Solutia are uncertain whether an AOC is an appropriate vehicle to resolve this matter. As pointed out in our legal counsel's letter dated November 18, 1998, the full basis for your concern in this regard has not been communicated by you or fully analyzed or agreed to by us. That letter also seeks to clarify that this concern does not negate the need for a good faith proposal on an AOC and SOW and does not extend the period of negotiations in this matter. As a general matter, we have made it clear in our discussions with you that it is U.S. EPA's practice to only conduct EE/CA and RI/FS work under the terms of an AOC or as a fund lead response action. We expect to ultimately follow this practice in this matter as well.

We appreciate Monsanto/Solutia's willingness to submit a proposal to conduct EE/CA and RI/FS activities at the site and we believe that progress has been made by the parties towards an agreement in this regard. However, we wish to be clear that the concerns expressed above are significant and we hope that Monsanto/Solutia will agree to proceed under the conditions expressed in this letter. If this is the case, U.S. EPA will extend the period of negotiation another 30 days to January 4, 1999, and will expect to receive from you on or before December 16, 1998, a complete proposal comprised of an AOC and SOW which address the preliminary comments attached to this letter. Thereafter, after we have had a chance to review your proposal, we will arrange for a meeting with you to discuss finalization of these documents before January 4, 1999.

We look forward to receiving your response on or before December 2, 1998. Please call Mike McAteer at (312) 886-4663 if you have any questions about this letter.

Sincerely,



Wendy L. Carney

Chief, Remedial Response Branch 1

Enclosures

cc: Joseph Nassif (via fax)
Terry Ayres (IEPA)

**bcc: Paul Takacs (IEPA)
Chris Perzan (IEPA)
Mike McAteer
Tom Martin (ORC)
Deb Klassman (ORC)**

**ENCLOSURE 1: PRELIMINARY RESPONSE TO
MONSANTO/SOLUTIA'S COMMENTS ON AOC**

1. GENERAL COMMENTS:

-As a general practice, U.S. EPA does not issue UAO's for EE/CA's and RI/FS. We still need to move forward with the AOC at this stage. We could consider issuing a UAO for the removal/remedial action that will come later.

-The AOC does not say Solutia/Monsanto is precluded from challenging the NPL listing.

2. SECTION IV, ORDER:

- Inclusion of a sampling plan with the AOC and SOW is not appropriate (see transmittal letter and SOW comments attached). Modification to section 2.3 and 2.4 should not be included for same reason.

- Regarding the suggested modification to section 2.5, it is not appropriate that the AOC contain statements about the agency acting "reasonably." The agency is held to the standard of acting not inconsistent with the NCP. If Solutia disagrees, the AOC contains a dispute resolution clause.

3. AUTHORITY OF RPM:

- Same comment as in #2 above. .

4. REIMBURSEMENT OF COST:

-Generally, under a joint and several liability theory, all future oversight costs are to be paid by AOC respondents. The annual bills are sent to signatories to AOCs and they are responsible for full payment.

5. DISPUTE RESOLUTION:

- Need to explain what needs to be modified. This should have been included in the good faith offer.

6. STIPULATED PENALTIES:

Solutia's suggested changes for this section should have been included in the good faith offer.

The above list is preliminary and U.S. EPA reserves the right to supplement its comments. U.S. EPA anticipates that Solutia's next submission will incorporate all of its proposed changes to U.S.EPA's original proposal.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

**PRELIMINARY RESPONSE TO EE/CA AND RI/FS SOW REVISIONS
FOR SAUGET AREA 1 SITE**

1. **Section 1.0, Page 2:** The need for inclusion of this statement is unclear. U.S. EPA is already certain that the SOW is consistent with the NCP and as with any enforcement document U.S. EPA intends to implement the AOC/SOW consistent with the NCP. There is no need to include this sentence in the SOW and it will not be included in the final SOW.

2. **Section 4.0, Page 16:** U.S. EPA agrees that in-place containment for soils, sediments and wastes can be evaluated as an alternative in the EE/CA. Monitored natural attenuation for "fill area leachate" may not be appropriate. The RI/FS allows for the evaluation of monitored natural attenuation for groundwater, however, U.S. EPA expects that MCLs will be met at the boundary of any waste disposal area. This would preclude the option of natural attenuation for "fill area leachate." This statement will not be included in the final SOW.

Finally, the statement that "Natural recovery will be evaluated for impacted sediments" is unclear. What is Solutia's definition of "natural recovery?" If this implies that sediments in excess of cleanup standards will be left in place, unaltered and uncovered, then this clearly conflicts with the statement at the end of this paragraph regarding the fact that a "No-Action" alternative shall not be included for evaluation in the EE/CA. This statement will not be included in the final SOW.

3. **Attachment B - Support Sampling Plan:** This attachment will not be included in the final SOW. As U.S. EPA discussed during the telephone conference call on November 13, 1998, there is obviously no time to negotiate a sampling plan at this stage of the negotiations (i.e., review and approval in less than 30 days). Further, as a general policy U.S. EPA Region 5 does not include a detailed workplan or sampling plan as part of an Order and SOW. U.S. EPA is however, willing to work on finalizing the support sampling plan during the negotiations period so that final approval can be provided shortly after the AOC/SOW is signed by both parties.